

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICK SHAWN,

Petitioner,

VS.

D.W. NEVEN, *et al.*,

Respondents.

Case No. 2:14-cv-00738-JAD-PAL

ORDER

11 As directed by this court's order of November 6, 2014 (Doc. 8), petitioner has filed an
12 amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. 12. Having
13 reviewed the amended petition, the court now sets deadlines for further proceedings in this case.

IT THEREFORE IS ORDERED that respondents shall file a response to the petition, including potentially a motion to dismiss, by June 30, 2015, with any requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule under the local rules. Any response filed shall comply with the remaining provisions below, which are entered pursuant to Habeas Rule 4.

IT FURTHER IS ORDERED that any procedural defenses raised by respondents in this case shall be raised together in a single consolidated motion to dismiss. In other words, the court does not wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to dismiss will be subject to potential waiver. Respondents shall not file a response in this case that consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to dismiss not in the answer; and (b) they shall specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24.

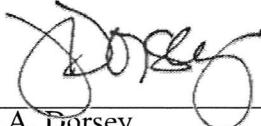
1 (9th Cir. 2005). In short, no procedural defenses, including exhaustion, shall be included with the
2 merits in an answer. All procedural defenses, including exhaustion, instead must be raised by
3 motion to dismiss.

4 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
5 specifically cite to and address the applicable state court written decision and state court record
6 materials, if any, regarding each claim within the response as to that claim.

7 IT FURTHER IS ORDERED that petitioner shall have 30 days from service of the answer,
8 motion to dismiss, or other response to file a reply or opposition, with any other requests for relief by
9 respondents by motion otherwise being subject to the normal briefing schedule under the local rules.

10 IT FURTHER IS ORDERED that any additional state court record exhibits filed herein by
11 either petitioner or respondents shall be filed with a separate index of exhibits identifying the
12 exhibits by number. The CM/ECF attachments that are filed further shall be identified by the
13 number or numbers of the exhibits in the attachment. The hard copy of any additional state court
14 record exhibits shall be forwarded – for this case – to the staff attorneys in **Reno**.

15 DATED May 15, 2015.



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17 Jennifer A. Dorsey
18 United States District Judge
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